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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,858	01/21/2005	Franciscus Lucas Antonius Kamperman	NL 020681	1225

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

EXAMINER	
SCHWARTZ, DARREN B	
ART UNIT	PAPER NUMBER
2435	
MAIL DATE	DELIVERY MODE
03/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/521,858	KAMPERMAN, FRANCISCUS LUCAS ANTONIUS	
	Examiner	Art Unit	
	DARREN SCHWARTZ	2435	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ____.
   Claim(s) objected to: ____.
   Claim(s) rejected: *1,3,5-11 and 13*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435

/DARREN SCHWARTZ/
Examiner, Art Unit 2435

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues on page 7 of REMARKS, 1: "Lundkvist does not teach or suggest that the third signal is generated by the first communication device by modifying the first signal according to the common secret as claimed."

While the Examiner in no way agrees nor disagrees with this assertion, the Examiner notes that on page 6 of the Office Action dated 22 January 2009 on page introduces the reference Blumenau as teaching "the third signal is generated by the first communication device by modifying the first signal according to the common secret as claimed." As such, applicant's arguments are inconsistent with the prior Office Action.

In response to applicant's argument on page 7 of REMARKS, "In the Office Action, page 6, lines 13 - 14, the Patent Office interpreted the STORAGE SUBSYSTEM PORT ADAPTER in Blumenau as the first communication device in the claimed invention. Applicants respectfully traverse such interpretation. Blumenau, column 37, lines 46 - 47 and Fig. 33, element 381, clearly shows that it is the HOST CONTROLLER that sends a request in the first step of the process. Since the HOST CONTROLLER sends the first signal, the HOST CONTROLLER should be identified with the first communication device as claimed, while the STORAGE SUBSYSTEM PORT ADAPTER should be identified with the second communication device as claimed," the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant further argues on page 7 of REMARKS, Blumenau does not generate a third signal by modifying the first signal according to the common secret, or comparing the third signal with the received second signal to check if the second signal has been modified according to the common secret.

The Examiner disagrees. Blumenau clearly teaches generating a third signal [Blumenau: Fig 33, elements 385, 388] by modifying the first signal [col 38, lines 8-10] according to the common secret [col 37, lines 55-66], or comparing the third signal [col 38, lines 8-10] with the received second signal [Fig 33, elements 387 & 388] to check if the second signal has been modified according to the common secret [Fig 33, element 389; col 38, lines 6-14].

Applicant argues on page 8 of REMARKS, "... that combining Lundkvist and Blumenau would change the principle of operation of Lundkvist and Blumenau." Applicant further argues "... the roles of the first and second communication devices are very different and are not interchangeable."

Applicant then curiously argues "Combining Lundkvist and Blumenau would require reversing the roles of the first and second communication devices." It appears applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Switching roles of two communicating or authenticating parties is a well known practice and according to applicant, appears to naturally flow from the prior art.

The Examiner maintains the combination of Lundkvist and Blumenau.

The fact that the Examiner may not have specifically responded to any particular arguments made by Applicant and Applicant's Representative, should not be construed as indicating Examiner's agreement therewith.